UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,261	03/07/2002	Mikko Makipaa	004770.00042	9273

72165   7590   03/01/2011
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ART UNIT	PAPER NUMBER
2173	

MAIL DATE	DELIVERY MODE
03/01/2011	PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte MIKKO MAKIPAA, TONI KOPRA, HEMANT MADAN,
AKSELI ANTTILA, PETTERI J. SAARINEN,
BARBARA HEIKKINEN, and OLEG BELETSKI

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Appeal 2009-008231
Application 10/092,261
Technology Center 2100

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Before JOSEPH F. RUGGIERO, ST. JOHN COURTENAY III,
and ELENI MANTIS-MERCADER, *Administrative Patent Judges.*

COURTENAY, *Administrative Patent Judge.*

DECISION ON APPEAL[1]

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 5, 6, 8-11, 17, 18, 20-28, and 35-37. Claims 1-4, 7, 12-16, 19, 29-34, and 38-39 have been cancelled. We have jurisdiction under 35 U.S.C. § 6(b).

We Reverse.

Invention

Appellants' invention relates generally to mobile communication devices. More particularly, the invention on appeal relates to a device having a screen saver program stored thereon that manages applications to operate in a screen saver mode. (Spec. 1).

Representative Claim

8.   An apparatus comprising

a storage medium;

a carousel stored in the storage medium; said carousel including plural application handles; and

a processor coupled to the storage medium, said processor configured to monitor the apparatus for detecting inputs from a command entry device, to determine whether a timeout period of activity from the inputs has been exceeded, to start a screen saver program when said timeout period of activity has been exceeded, and to execute an application via one of said handles, the application being an independent program from said screen saver program and operable in a full application mode and a screen saver mode, the application being fully functional in said full application mode and less than fully

functional in said screen saver mode, the application creating an image for presentation on a display screen in said screen saver mode, wherein the carousel comprises a database stored in the storage medium containing the application handle and rules for selecting the application handle;

wherein the database further contains application execution parameters associated with the handle, wherein the application is executed in the screen saver mode according to the parameters associated with the handle selected for executing the application;

wherein the application additionally has another handle comprising different execution parameters.

Prior Art

King   US 2003/0083109 A1   May 1, 2003

"Serandom Screensaver Manager" Seraline P/L (hereinafter "Serandom").

"http://web.archive.org/web/20001202004800/http://www.weraline.com/serandom.htm   Web page captured December 2, 2000, 3 pages.

"Dremples", Ryan M. Geiss.

"http://web.archive.org./web/20010411030126/http://www.geisswerks.com/dremp els/". Web page captured April 11, 2001. 10 pages.

Examiner's Rejection

Claims 5, 6, 8-11, 17, 18, 20-28, and 35-37[2] stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Serandom, Drempels, and King, and Official Notice.[3]

ISSUE

Based upon our review of the administrative record, we have determined that the following issue is dispositive in this appeal:

> Under § 103, did the Examiner err in determining that the
> combination of Serandom, Drempels, and King would
> have taught or suggested a carousel that includes plural
> application handles each comprising different execution
> parameters for the application and *rules for selecting the*
> *application handles*, within the meaning of independent
> claims 8, 20, and 24?

FINDINGS OF FACT

1. The Examiner finds that King teaches "a user can select
    one or more of a plurality of handles via the toolbar
    (carousel) of figure 7, where each of [602]-[610] is a
    handle for displaying a picture file containing a plurality

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[2] We observe that Appellants' listing of claims includes duplicate claims each numbered as claim 37. (App. Br. 20-21). We consider this as a typographical error.

[3] *See* Ans. 5 where the Examiner takes Official Notice that databases were notoriously well known in the art at the time of Appellants' invention.

of pictures, each handle [icon] having associated

parameters for execution (picture files / information

selection / and screen saver selection) see paragraphs 40

and 41 and figures 5 and 7)." (Ans. 7, ¶ 1).

2.   The Examiner finds that King teaches "[t]he information

(execution parameter) that can be displayed with the

images is described in column 35 and figure 7, as

execution parameter information (weather, news, and ad

feeds) selectively assigned to handles via adjacent check

boxes." (Ans. 7, ¶ 1, last 4 lines).

3.   King teaches: "As shown in FIG. 7, information

selection option buttons 702-712 associated with each

icon on the left hand side of the icons could be selected

for each icon to display certain information when the

icon is selected. For example, weather or other content

specific information such as advertisements could be

displayed when the information selection option is

selected and an icon is chosen. Family icon 604 and

vacation icon 606 are shown with the information option

selected in FIG. 7." (para. [0040]).

ANALYSIS

At the outset, we broadly but reasonably construe the claimed

"handle" as a pointer or address used to invoke an application where the

"handle" additionally comprises execution parameters associated with the

application to be invoked. *Cf.* Spec. 7, paras. 24-26.

The Examiner acknowledges that the Serandom and Drempels references do not teach the disputed limitation of an application that additionally has another handle comprising different execution parameters. (Ans. 6, ¶ 2). The Examiner looks to the tertiary King reference as purportedly teaching or suggesting this feature that is missing from Serandom and Drempels. (*Id.*; *see also* Ans. 20-21).

The Examiner finds that King teaches "a user can select one or more of a plurality of handles via the toolbar (carousel) of figure 7, where each of [602]-[610] is a handle for displaying a picture file containing a plurality of pictures, each handle [icon] having associated parameters for execution (picture files / information selection / and screen saver selection) see paragraphs 40 and 41 and figures 5 and 7)." (FF 1; *see also* Ans. 20, ¶2).

The Examiner also finds that King teaches "execution parameters" such as weather, news, and ad feeds that can be displayed with the images, as described by King in column 35 and figure 7, where this "execution parameter information" (weather, news, and ad feeds) is selectively assigned to handles via adjacent check boxes. (FF 2).

Appellants contest the aforementioned findings by the Examiner, as follows:

> This disclosure in King is insufficient to constitute a disclosure of the relevant feature of Claim 8, specifically, the language in Claim 8 that specifies that the carousel includes plural application handles and wherein the application has "another handle comprising different execution parameters." The King reference is purportedly concerned with a method for enabling the selection of a picture file on a cellular telephone. Paragraph 35 of King discusses "information display areas 510 and 512." [see Fig. 5] As explained in King, these display areas could

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include "relevant information associated with the content
of the picture files." According to King, the information
display area 510 could include, for instance, weather
information location of the content of the picture file,
while information display area 512 could include a
banner advertisement that is relevant to the content or the
location of the picture file. This does not constitute
teachings of an application with an *additional handle that
comprises different execution parameters*. The Examiner
is attempting to map the elements of Claim 8 onto the
plural displays of the King reference, but King does not
disclose a second application handle with different
execution parameters. King is simply inapposite.

(App. Br. 11).

In the Reply Brief, Appellants address an apparent shift in the

Examiner's position:

Later - and for the first time in the Examiner's Answer -
the Examiner finds the "carousel" in Fig. 7 of the King
reference . . . As an example, a user can select one or
more of a plurality of handles via the toolbar (carousel)
of Fig. 7, wherein each of [602]-[610] is a handle for
displaying a picture file. . . .
This assertion, which is fundamentally inconsistent with
the Examiner's earlier position, is just as wrong. Fig. 7 of
King is as follows: [see Fig. 7 of King].

This figure does not illustrate a carousel. As claimed, the
carousel comprises a database. Fig. 7 depicts a user
interface, not a database. The figure appears to depict a
computer generated toolbar that depicts a list of icons,
each of which represents a picture that can be displayed
on the user's screen. Via this toolbar, the user may select
which pictures are displayed as a screensaver (via the
Saver checkboxes) and whether information concerning

> the pictures is displayed (the INFO checkboxes). See Fig.
> 5 and paragraph 40 of King. Again, there is no teaching
> of a database, much less of the other parameters items
> specified by the claims. *For instance, there are no rules
> for selecting an application handle.* And in any case the
> Examiner's position is inconsistent with the idea that the
> carousel is the list of screen saver names in Serandom.

(Reply Br. 3-4)(emphasis added).

The appeal before us presents a close question. However, based upon our review of the evidence, we find Appellants' arguments persuasive for the following reason:

Even assuming *arguendo* (without deciding) that the claimed "handles" are taught or suggested by King's icons 602-610 (Fig. 7) that are used to invoke an application that displays a picture file, and also that each icon 602-610 (i.e., handle) has different associated execution parameters (702-710, *e.g.*, for weather info and other content), we do not find, and the Examiner has not established, where the proffered combination of references teaches or fairly suggests a carousel (i.e., a database) that includes plural application handles *and rules for selecting the application handles*. *See* FF 3.

While the Examiner concludes that it would have been obvious to store rules in a database (Ans. 5, 4th line from the bottom of page), we find nothing in the evidence before us that teaches or fairly suggests a database (i.e., carousel) that includes specific *rules for selecting the application handles* (which would have to correspond under the Examiner's reading to specific rules for selecting King's icons 602-610 (i.e., handles), as depicted in Figure 7. Indeed, we find King's paragraphs [0040-0041] that describe

Figure 7 are silent regarding any mention of *specific rules* for selecting icons 602-610 (corresponding to the claimed handles as proffered by the Examiner).

For essentially the same reasons argued by Appellants in the Briefs, as further discussed above, on this record we cannot affirm the Examiner's obviousness rejection of each independent claim on appeal. Therefore, we reverse the Examiner's rejection for each independent claim, and we also reverse the rejection of each associated dependent claim.

DECISION

We reverse the Examiner's § 103 rejection of claims 5, 6, 8-11, 17, 18, 20-28, and 35-37.

ORDER

REVERSED

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